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3 **UNITED STATES DISTRICT COURT**  
4 **NORTHERN DISTRICT OF CALIFORNIA**  
5 **SAN JOSE DIVISION**  
6

7 UNITED STATES OF AMERICA,

8 Plaintiff,

9 v.

10 MELVIN RUSSELL “RUSTY” SHIELDS,

11 Defendant.  
12

Case No. 12-cr-00410-BLF-1

**ORDER DENYING DEFENDANT  
SHIELDS’ MOTION TO QUASH  
SUBPOENAS AND LIMIT DEFENSE  
COUNSEL NOLAN’S PRODUCTION;  
AND GRANTING UNITED STATES’  
MOTION FOR ENLARGEMENT OF  
TIME TO RESPOND TO DEFENDANT  
SHIELDS’ MOTION UNDER 28 U.S.C. §  
2255**

[Re: ECF 490, 493]  
14

15 On February 23, 2018, the United States filed a motion to enlarge its time to respond to  
16 Defendant Melvin Russell “Rusty” Shields’ motion under 28 U.S.C. § 2255 from February 28,  
17 2018 to May 30, 2018. *See* Motion to Enlarge, ECF 490. The Court granted the motion in part on  
18 February 28, 2018, extending the United States’ response deadline by 30 days to March 30, 2018  
19 pending a response to the motion to enlarge from Mr. Shields. *See* Order, ECF 492. The Court set  
20 a deadline of March 15, 2018 for Mr. Shields’ response.

21 On March 9, 2018, Mr. Shields filed a document which opposed the United States’ motion  
22 to enlarge time and sought to quash subpoenas issued by the United States to Mr. Shields’ prior  
23 counsel. With respect to trial counsel Shira Kieval and appellate counsel Erick Guzman, Mr.  
24 Shields asserted that the subpoenas were outside the scope of his attorney-client waiver because he  
25 had not asserted any claims against Ms. Kieval or Mr. Guzman for ineffective assistance of  
26 counsel. With respond to Mr. Nolan, Mr. Shields requested that the Court limited the subpoena to  
27 information Mr. Nolan already has produced.

28 The United States filed opposition to Mr. Shields’ motion to quash subpoenas, asserting

1 that the motion is untimely and unsupported by the record. Mr. Shields waited more than 3  
2 months after learning of the subpoenas to Mr. Nolan and Ms. Kieval, and more than 2 months  
3 after learning of the subpoena to Mr. Guzman, before filing his motion to quash. Moreover, the  
4 United States points out that the Court granted a waiver of the attorney-client privilege as to “the  
5 issues” raised by Mr. Shields’ ineffective assistance claims. The United States contends that  
6 numerous boxes of documents relevant to Mr. Shields’ ineffective assistance claims against Mr.  
7 Nolan were sent from Mr. Nolan to Mr. Guzman. The United States also contends that because  
8 Ms. Kieval and Mr. Nolan were co-counsel in defending Mr. Shields at trial, Ms. Kieval’s trial  
9 work is relevant to evaluating the asserted deficiencies in Mr. Shields’ trial representation.  
10 Finally, with respect Mr. Shields’ request to limit Mr. Nolan’s production to documents already  
11 turned over, the United States represents that Mr. Nolan has agreed to supplement his prior  
12 production with several additional categories of responsive documents.


13 Mr. Shields’ motion to quash subpoenas is DENIED. It appears that the United States is  
14 limiting its efforts to documents relevant to Mr. Shields’ ineffective assistance claims. The fact  
15 that some responsive documents may be in the possession of Ms. Kieval and Mr. Guzman does  
16 not shield the documents from production, nor does the fact that Mr. Nolan initially produced only  
17 a few documents.

18 Given the Court’s denial of Mr. Shields’ motion to quash, the United States’ ongoing  
19 efforts to obtain documents relevant to Mr. Shields’ ineffective assistance claims against Mr.  
20 Nolan, and the recent substitution of the United States’ counsel, the Court concludes that the  
21 United States’ motion for enlargement of time to and including May 30, 2018 is reasonable.  
22 Accordingly, the motion for enlargement of time is GRANTED.

23 The United States is advised that no further extensions of time to respond to Mr. Shields’ §  
24 2255 motion will be granted absent extraordinary circumstances.

25 **IT IS SO ORDERED.**

26 Dated: March 13, 2018

27   
28 BETH LABSON FREEMAN  
United States District Judge